

MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
SOPHIA C. KIM (State Bar No. 265649)
Senior Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013
Telephone: (213) 576-7594
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CFL LICENSE NO.: 60DBO-81314
)	
THE COMMISSIONER OF BUSINESS)	ORDER DENYING APPLICATION FOR
OVERSIGHT,)	CALIFORNIA FINANCE LENDER AND
)	BROKER LICENSE
Complainant,)	
)	
v.)	
)	
DBA ASSURANCE PARTNERS LLC a.k.a.)	
TRUST CAPITAL LLC,)	
)	
Respondent.)	
)	

The Complainant, the Commissioner of Business Oversight (Commissioner) of the Department of Business Oversight (Department), finds that:

- At all relevant times, DBA Assurance Partners LLC a.k.a. Trust Capital LLC (DBA Assurance) is a Wyoming limited liability company formed on November 21, 2013 and initially registered to do business in California on October 30, 2015. As of August 27, 2018, the California Secretary of State's website reflects DBA Assurance's status as being "SOS Forfeited."
- At all relevant times, DBA Assurance's principal place of business is located at 2036 Hornblend Street, Suite B, San Diego, California 92109.

1 3. At all relevant times, Paul Daniel Kendall (Kendall) is the President / CEO,
2 Secretary, Director, and 100% owner of DBA Assurance, with a principal place of business located
3 at 2036 Hornblend Street, Suite B, San Diego, California 92109.

4 4. On or around October 6, 2017, DBA Assurance filed its initial application to the
5 Commissioner for a finance lender and broker license (file number 60DBO-77077) (Initial
6 Application). Kendall, as CEO and Director of the applicant, signed the declaration section of the
7 Initial Application and also submitted Exhibit C, “Statement of Identity Questionnaire,” (SIQ) as
8 required pursuant to California Code of Regulations, title 10, section 1422, declaring under penalty
9 of perjury that the statements made in the Initial Application and SIQ were true and correct.

10 5. Item #5 of the SIQ stated, in pertinent part:

11 Have you ever been convicted of or pleaded nolo contendere to a
12 misdemeanor or felony other than minor traffic citations that do not
13 constitute a misdemeanor or felony offense?
14 “Convicted” includes a verdict of guilty by judge or jury, a plea of guilty
15 or of nolo contendere or a forfeiture of bail. All convictions must be
16 disclosed even if the plea or verdict was thereafter set aside and the
 charges against you dismissed or expunged or if you have been pardoned .
 . . . If the answer is ‘Yes’, give details . . . Attach a copy of any order,
 judgment or decree

17 6. Kendall answered “Yes” to Item #5 and provided the following details: “DUI in
18 2007.” He provided a printed “Case Summary” for Case Number 08HM04596 from Orange
19 County Superior Court, Harbor – Newport Beach, disclosing that on May 1, 2008, he was charged
20 with three criminal misdemeanor offenses: Count 1, “Driving Under the influence of Drugs,” Count
21 2, “Drive while blood alcohol level is 0.08% or more,” and Count 3, “False report of criminal
22 offense.” On June 22, 2009, Counts 1 and 2 were dismissed, and Kendall pleaded guilty to Count 3,
23 “False report of criminal offense,” in violation of Penal Code section 148.5(a). The Case Summary
24 provided dates from the date of the alleged violation on May 1, 2008 through the end date of his
25 informal three year-probation on June 21, 2012.

26 7. On or around January 17, 2018, DBA Assurance withdrew its Initial Application and
27 submitted a new application (file no. 60DBO-81314) (New Application). Kendall again signed the
28

1 declaration section of the New Application and the SIQ under penalty of perjury, making no
2 changes to his answer to Item #5.

3 8. During the application review process a criminal history background check
4 confirmed that on June 22, 2009, Kendall pleaded guilty to a misdemeanor count of filing a false
5 police report of a criminal offense, in violation of Penal Code section 148.5(a). This contradicted
6 his statements in his SIQ's submitted in connection with both his Initial Application and his New
7 Application, wherein he stated that he had been convicted of a "DUI in 2007."

8 9. Penal Code section 148.5(a) provides:

9 Every person who reports to any peace officer listed in Section 830.1 or
10 830.2, or subdivision (a) of Section 830.33, the Attorney General, or a
11 deputy attorney general, or a district attorney, or a deputy district attorney
12 that a felony or misdemeanor has been committed, knowing the report to
be false, is guilty of a misdemeanor.

13 10. On or around March 2, 2018, the Department received further information from
14 Kendall dated February 22, 2018 regarding the circumstances of his arrest on May 1, 2008,
15 contradicting his statement of having been convicted of a "DUI in 2007." He did not provide any
16 supporting documentation to justify stating in his Initial Application and New Application that he
17 had been convicted of a "DUI in 2007" rather than the fact that he had pleaded guilty to Penal Code
18 section 148.5(a) on June 22, 2009.

19 11. Financial Code section 22109, subdivision (a) provides, in relevant part:

20 (a) Upon reasonable notice and opportunity to be heard, the commissioner
21 may deny the application for a finance lender or broker license for any of
the following reasons:

22 (1) A false statement of a material fact has been made in the application.

23 (2) The applicant or an officer, director, general partner, person
24 responsible for the applicant's lending activities in this state, or person
25 owning or controlling, directly or indirectly, 10 percent or more of the
26 outstanding interests or equity securities of the applicant has, within the
last 10 years, been **convicted** of or pleaded nolo contendere to a crime, **or**
27 **committed an act involving dishonesty**, fraud, or deceit, if the **crime or**
act is substantially related to the qualifications, functions, or duties of a
28 person engaged in business in accordance with this division
(Emphasis added.)

1 12. The Commissioner finds, by reason of the foregoing, that DBA Assurance's New
2 Application contains a false statement of a material fact made by Paul Daniel Kendall, its President
3 / CEO, Secretary, Director, and 100% owner, which is grounds under Financial Code section
4 22109, subdivision (a)(1) to deny the application of DBA Assurance for a finance lender and broker
5 license.

6 13. Furthermore, pursuant to Financial Code section 22109, subdivision (a)(2), DBA
7 Assurance's President / CEO, Secretary, Director, and 100% owner has, within the last 10 years, i.e.
8 approximately eight years and six months prior to filing the New Application,¹ been convicted of a
9 crime involving dishonesty, specifically filing a false police report, which is an act involving
10 dishonesty toward a law enforcement officer and is inconsistent with the qualifications, functions,
11 and duties of a mortgage loan originator regulated under the CFL. Also, misrepresenting the nature
12 of the misdemeanor conviction and the date of occurrence under penalty of perjury in both his
13 Initial Application and his New Application, as recently as October 6, 2017 and January 7, 2018,
14 respectively, each constitutes a recent act that is within the ten year-period referenced in Financial
15 Code section 22109.

16 14. Kendall's false statements made under penalty of perjury in his Initial Application
17 and New Application and guilty conviction on June 22, 2009 each constitute grounds under
18 Financial Code section 22109, subdivisions (a)(1) and (a)(2) to deny the application of DBA
19 Assurance for a finance lender and broker license.

20 15. On August 29, 2018, the Commissioner issued to DBA Assurance a Notice of
21 Intention to Issue Order Denying Application for California Finance Lender and Broker License,
22 Statement of Issues, and accompanying documents (Notice of Intention to Deny) based on the
23 above findings. On August 29, 2018, the Commissioner served DBA Assurance with the Notice of
24 Intention to Deny via certified mail, return receipt requested, which was signed by Kendall on
25 September 4, 2018. DBA Assurance did not request a hearing and the time to request a hearing has
26 expired.

27
28 ¹ Kendall pleaded guilty on June 22, 2009. Approximately eight years and three months later, on October 6, 2017, DBA Assurance filed its Initial Application. Approximately three months thereafter, on January 17, 2018, DBA Assurance filed its New Application.

1 NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the application
2 filed by DBA Assurance Partners LLC a.k.a. Trust Capital LLC on January 17, 2018, file number
3 60DBO-81314 be denied.

4
5 Dated: October 3, 2018
6 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

7
8
9 By _____
10 MARY ANN SMITH
11 Deputy Commissioner
12 Enforcement Division
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28